

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANTHONY PRATT,

ORDER

Plaintiff,

07-cv-327-jcs

v.

KURT REIM, MARION FEATHER, STEVE ROBINSON,
DAN WINGLER AND PHIL URBANEK,

Defendants.

Because Judge Shabaz will be convalescing from shoulder surgery for an extended period, I have assumed administration of the cases previously assigned to him, including this one. The record shows that judgment was entered in this Bivens action on October 26, 2007, after Judge Shabaz concluded that plaintiff had failed to exhaust his administrative remedies. On November 5, 2007, plaintiff filed a motion for reconsideration or, in the alternative, a notice of appeal. Judge Shabaz denied both motions in an order dated November 6, 2007 and certified that plaintiff's appeal was not taken in good faith. Subsequently, the Court of Appeals for the Seventh Circuit also denied plaintiff's request for leave to proceed on appeal in forma pauperis and directed him to pay the \$455 filing fee

within fourteen days of January 10, 2008. When plaintiff did not pay the fee, the court of appeals dismissed plaintiff's appeal and directed the clerk of this court to collect the fee from plaintiff's prison account. In response to that directive, this court wrote to the warden of the institution at which plaintiff is confined and instructed him to begin deducting payments for the fee from plaintiff's account.

Now the court has received an undated letter from plaintiff in which he asks for clarification concerning his obligation to pay the \$455.00 fee. I construe the request to include a motion for waiver of the fee for filing an appeal. The motion will be denied.

Apparently, plaintiff believes that because his appeal was not decided on the merits, he should not owe the filing fee. He is mistaken. Unfortunately, as the name suggests the fee is for *filing* an appeal. It is explicitly required by statute to be collected, 28 U.S.C. § 1915(b)(1). Therefore, this court has no authority to waive plaintiff's obligation to pay it.

ORDER

IT IS ORDERED that plaintiff's motion to waive the \$455.00 fee for filing his appeal in this case is DENIED.

Entered this 7th day of March, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge